

**MINUTES  
URBAN COUNTY PLANNING COMMISSION  
SUBDIVISION ITEMS**

**May 12, 2011**

- I. CALL TO ORDER** - The meeting was called to order at 1:40 p.m. in the 7<sup>th</sup> Floor Conference Room, Phoenix Building, 101 East Vine Street, Lexington, Kentucky. This meeting was relocated from the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky due to a scheduling conflict. Notice of the meeting location change was posted on the door of the Government Center and of the Council Chambers.

Planning Commission Members Present – Carolyn Richardson, Chair; Mike Cravens, Lynn Roche-Phillips; Marie Copeland (departed at 2:57 p.m.); Ed Holmes; Mike Owens; William Wilson; Eunice Beatty (departed at 2:55 p.m.). Carla Blanton, Derek Paulsen and Patrick Brewer were absent.

Planning Staff Present – Chris King, Bill Sallee, Barbara Rackers, Tom Martin, Chris Taylor, Cheryl Gallt and Denise Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Captain Charles Bowen, Division of Fire & Emergency Services and Rochelle Boland, Department of Law.

- II. APPROVAL OF MINUTES** – The Chair reminded the members that the Planning Commission meeting minutes of April 14, 2011, had been previously distributed to the Commission, and were ready to be considered at this time.

Action - A motion was made by Mr. Cravens, seconded by Ms. Beatty and carried 8-0 (Blanton, Brewer and Paulsen absent) to approve the minutes of the April 14, 2011, meeting.

- III. POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

- a. DP 2011-40: GESS PROPERTY, UNIT 1 (8/2/11)\* - located at 480 Chilesburg Road.  
(Council District 7)

**(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2011-40 to the June 9, 2011, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Wilson, seconded by Ms. Roche-Phillips and carried 8-0 (Blanton, Brewer and Paulsen absent) to postpone DP 2011-40 to the June 9, 2011, Planning Commission meeting.

- b. DP 2011-26: SHARKEY PROPERTY, UNIT 1, LOT 18 (TOWNLEY CENTER) (5/29/11)\* - located at 1701 Sharkey Way. (Council District 2)

**(The Roberts Group)**

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting that DP 2011-26 be withdrawn.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for withdrawal. There was no response.

Action - A motion was made by Mr. Holmes, seconded by Mr. Owens, and carried 8-0 (Blanton, Brewer and Paulsen absent) to accept the withdrawal of DP 2011-26.

- IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, May 5, 2011, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, Marie Copeland, Eunice Beatty and Derek Paulsen. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Chris Taylor, Barbara Rackers and Denise Bullock, as well as Captain Charles Bowen, Division of Fire & Emergency Services; Rochelle Boland, Law Department; and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

*General Notes*

*The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.*

- 1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
- 2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

**Criteria:** (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and

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\* - Denotes date by which Commission must either approve or disapprove plan.

- (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
- (3) no discussion of the item is desired by the Commission; and
- (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
- (5) the matter does not involve a waiver of the Land Subdivision Regulations.

**Requests can be made to remove items from the Consent Agenda:**

- (1) due to prior postponements and withdrawals,
- (2) from the Planning Commission,
- (3) from the audience, and
- (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of some of these items, and the other items listed had been recommended for a one-year extension by the staff. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. PLAN 2010-32P: SUNNY SLOPE, UNIT 3-J & A PORTION OF UNIT 1 (AMD) (8/3/11)\* - located on Waveland Museum Lane near Winthrop Drive. (Council District 9) **(Hall-Harmon)**

Note: The Planning Commission originally approved this plan on May 13, 2010, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addresses as per e911 staff.
5. Addition of Final Record Plat information for the property.
6. Denote construction access.
7. Denote source of contours.
8. Denote floodplain elevation.
9. Adjacent property record plat reference.
10. Denote all private utility providers.
11. Denote linear street right-of-way.
12. Denote average lot size.
13. Denote approved plan information for Area D.
14. Clarify note #25.
15. Clarify relocated access to cell tower site.
16. Resolve extent of Waveland Museum Lane construction and access to adjoining undeveloped property.

Note: The applicant now requests an extension of the Commission's prior approval.

The Staff Recommends: **Approval of a one-year extension**, subject to the previous conditions.

2. PLAN 2011-22F: DENTON FARM, INC., UNIT 1-F (AMD) (5/12/11)\* - located at 3936-3985 Tatton Park. (Council District 7) **(Foster-Roland, Inc.)**

Note: The Planning Commission postponed this plan at their March 10, 2011 and April 14, 2011, meetings. The purpose of this amendment is to add two new lots.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s).
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote: This property shall be developed in accordance with the approved final development plan.
8. Addition of tree planting plan.
9. Approval of exaction information to the approval of the Division of Planning.
10. Correct note #7 - add "per conditional zoning restrictions."
11. Label special design area (from previous plan).

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12. Denote: No building permits will be issued on Lots 6, 9 and 11 until an easement minor plat is recorded or as released by the Urban County Council.
13. Document that the additional sewer taps have been installed for all new lots to the approval of the Division of Engineering.
3. PLAN 2011-38F: PARKWAY PLAZA (AMD) (5/29/11)\* - located at 2361-2397 Paris Pike.  
(Council District 6) **(Vantage Engineering)**

Note: The Planning Commission postponed this plan at their April 14, 2011, meeting. The purpose of this amendment is to subdivide one lot into two lots and to create an access easement.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping and required street tree information.
  4. Approval of street addresses as per e911 staff.
  5. Urban Forester's approval of tree protection areas.
  6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
  7. Denote: This property shall be developed in accordance with the approved final development plan.
  8. Addition of Urban County Engineer's certification.
  9. Addition of maintenance note per Article 5-4(g) of the Land Subdivision Regulations.
  10. Addition of private utility information.
  11. Addition of access note from previous plat.
  12. Addition of service road cross-sections from previous plat.
  13. Addition of tree protection areas along northeast and northwest property lines.
  14. Provide signature area for both the property owner's certification and the access easement maintenance certification.
4. PLAN 2011-49F: MASTERSON STATION, UNIT 10-G (7/3/11)\* - located at 3050 Spurr Road (a portion of Sandersville Road). (Council District 2) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, sanitary sewers and floodplain information.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping.
  4. Approval of street addresses as per e911 staff.
  5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
  6. Provide tree canopy note and required street tree information to the approval of the Urban Forester.
  7. Document release of easement on Lot 30 prior to certification.
  8. Revise note #5 relative to the future greenway and floodplain.
5. PLAN 2009-25F: RESERVE AT WALNUT GROVE, UNIT 1-A (7/31/11)\* - located at 3820 Hatfield Lane (a portion of). (Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on May 14, 2009 and granted an extension on May 13, 2010, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Addition of exaction information.
10. Document compliance with minimum open space requirements.
11. Resolve access to lots from private streets, and the reduction of open space.

Note: The applicant now requests an extension of the Commission's prior approval.

The Staff Recommends: **Approval of a one-year extension**, subject to the previous conditions.

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6. PLAN 2009-26F: RESERVE AT WALNUT GROVE, UNIT 1-B (7/31/11)\* - located at 3820 Hatfield Lane (a portion of). (Council District 12)  
**(EA Partners)**

Note: The Planning Commission originally approved this plan on May 14, 2009, and granted an extension on May 13, 2010, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Addition of exaction information.
10. Document compliance with minimum open space requirements.
11. Resolve access to lots from private streets, and the reduction of open space.

Note: The applicant now requests an extension of the Commission's prior approval.

The Staff Recommends: **Approval of a one-year extension**, subject to the previous conditions.

7. PLAN 2009-27F: RESERVE AT WALNUT GROVE, UNIT 1-C (7/31/11)\* - located at 3820 Hatfield Lane (a portion of). (Council District 12)  
**(EA Partners)**

Note: The Planning Commission originally approved this plan on June 11, 2009, and granted an extension on May 13, 2010, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Addition of exaction information.
10. Document compliance with minimum open space requirements.

Note: The applicant now requests an extension of the Commission's prior approval.

The Staff Recommends: **Approval of a one-year extension**, subject to the previous conditions.

8. PLAN 2009-28F: RESERVE AT WALNUT GROVE, UNIT 1-D (7/31/11)\* - located at 3820 Hatfield Lane (a portion of). (Council District 12)  
**(EA Partners)**

Note: The Planning Commission originally approved this plan on May 14, 2009, and granted an extension on May 13, 2010, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Addition of exaction information.
10. Document compliance with minimum open space requirements.
11. Resolve access to lots from private streets, and the reduction of open space.

Note: The applicant now requests an extension of the Commission's prior approval.

The Staff Recommends: **Approval of a one-year extension**, subject to the previous conditions.

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9. DP 2011-38: PINNACLE, LOT 1. (AMD #5) (7/3/11)\* - located at 1099 Duval Street.  
(Council District 12) **(Midwest Engineering)**

Note: The purpose of this amendment is to depict the reconfiguration of the previously approved parking and buildable areas.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping and landscape buffers.
  4. Approval of street addresses as per e911 staff.
  5. Urban Forester's approval of tree protection plan.
  6. Division of Fire's approval of emergency access and fire hydrant locations.
  7. Division of Waste Management's approval of refuse collection.
  8. Denote the number of stories in the existing buildings.
  9. Addition of tree preservation layout on plan (including original submission information).
  10. Correct notes #4 & 10.
  11. Clarify tree count per conditional zoning restrictions with tree canopy statistics, and denote locations.
10. DP 2011-39: LAKEVIEW PROFESSIONAL SUBDIVISION, PH III (RUTTENBERG & COHEN) (AMD #7) (7/3/11)\* - located on Palumbo Drive and New Circle Road. (Council District 7) **(Barrett Partners)**

Note: The purpose of this amendment is to add buildable area (Building "K") and reduce parking.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Division of Fire's approval of emergency access and fire hydrant locations.
6. Division of Waste Management's approval of refuse collection.
7. Addition of construction access.
8. Addition of height or number of stories of building.
9. Denote location of storm water detention.
10. Denote canopy proposed over property line to the approval of Building Inspection.

In conclusion, Mr. Sallee said that the items listed on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration for discussion purposes.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. Ms. Roche-Phillip asked if condition #16 listed on PLAN 2010-32P: SUNNY SLOPE, UNIT 3-J & A PORTION OF UNIT 1 (AMD) had been resolved. Mr. Martin replied affirmatively, noting that the applicant and staff are in agreement with the language of the note.

Action - A motion was made by Mr. Owens, seconded by Mr. Holmes, and carried 8-0 (Blanton, Brewer and Paulsen absent) to approve the items identified on the Consent Agenda.

- B. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

# **1. FINAL SUBDIVISION PLANS**

- a. PLAN 2011-26F: FOREST PARK ADDITION (AMD) (5/12/11)\* - located at 201 Forest Park Road.  
(Council District 3) **(Wes Witt, Inc.)**

Note: The Planning Commission postponed this plan at its March 10, 2011 and March 24, 2011, meetings. The purpose of this amendment is to subdivide one lot into two lots.

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The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s).
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote proposed and existing easements.
8. Denote private utility providers as per Article 5-4(e) of the Subdivision Regulations.
9. Add maintenance note per Article 5-4(g) of the Subdivision Regulations.
10. Denote public passage way easement for utility strip and sidewalk adjacent to Forest Park Road right-of-way.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the amended Final Record Plat for Forest Park Addition. He noted that this property is located at 201 Forest Park Road, and that this request was postponed by the Commission at their March 10<sup>th</sup> and 24<sup>th</sup> meetings.

Mr. Martin said that the subject property is located at the corner of Forest Park Road and Elizabeth Street, south of Waller Avenue, and the purpose of this amendment is to subdivide the corner lot into two lots. This property is zoned R-1C, and there is an existing house already situated on the lot, as well as a garage and a driveway to the rear.

Mr. Martin said that during the March 10<sup>th</sup> Planning Commission meeting, the staff had indicated that the Forest Park cross-section transitions from solid pavement into an existing median section; and it was determined that the sidewalk and the utility strip are outside the Forest Park Road right-of-way. When the sidewalk and utility strip are outside the right-of-way, a "passage way" easement is usually created. This type of easement allows the Lexington-Fayette Urban County Government to have primacy over typical utility easements.

Mr. Martin then said that the Subdivision Committee had reviewed this proposal and recommended approval of this amendment, subject to the conditions listed on today's agenda. Since the Subdivision Committee meeting, the applicant had submitted a revised plan that addressed a few of the "cleanup" type of deficiencies previously identified. With the newest revision submitted, the staff can now offer the following revised recommendations:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s).
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote proposed and existing easements.
8. ~~Denote private utility providers as per Article 5-4(e) of the Subdivision Regulations.~~
9. ~~Add maintenance note per Article 5-4(g) of the Subdivision Regulations.~~
10. ~~Denote public passage way easement for utility strip and sidewalk adjacent to Forest Park Road right-of-way.~~

Mr. Martin said that most of the utilities are located within the public street rights-of-way and for this site, the sanitary sewer connection is located in the center of Forest Park Road. In order for Lot 63 to make a connection to the existing sanitary sewer line, it will be necessary to establish a new lateral sewer line. That connection would cross Lot 62 and connect to the main sewer line in Forest Park Road. He noted that condition #7 is related to this issue and the applicant would need to denote the proposed and existing easements on this amended development plan.

Mr. Martin then said that at the March 10<sup>th</sup> Planning Commission, the applicant was asked to provide a conceptual idea as to how this lot would be developed. Directing the Commission's attention to a rendered exhibit, he explained that both lots would conform to the minimum lot size of 8,000 sq. ft., as well as the minimum 60 feet of lot frontage. The new submission also proposes a two-story single family unit with a driveway. He said that the applicant's recent submission proposed that the lot lines be readjusted so that a mature tree on the property can be retained. Mr. Martin distributed a photograph to the Commission, and noted the location of the existing garage and the large tree on the subject property.

Mr. Martin said that at the March 10<sup>th</sup> meeting, the Planning Commission had concerns with the existing zoning near the subject property. He said that the subject property, as well as the majority of the immediate

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area is zoned Single Family Residential (R-1C). He also noted that there are several different zoning categories in the general vicinity that include R-3, R-4 and P-1 zones.

In conclusion, Mr. Martin said that based upon the newest submission, the staff is recommending approval of this plat, subject to the revised conditions as previously noted.

Planning Commission Questions – Ms. Copeland asked if the existing garage would be retained. Mr. Martin said that it is the staff's understanding that the existing garage would be demolished and replaced with the single family house.

Mr. Owens asked about the distance proposed between the back of the house and the proposed property line. Mr. Martin said that the minimum setback will need to be 18 feet between the new rear of the structure and the proposed property line. He then said that the proposed offset of the setback is to ensure that the root zone for the mature tree is protected.

Representation – Fred Eastridge, engineer, was present on behalf of Wesley Witt (surveyor) and the applicant. He said that, in reviewing the site location and the orientation of the existing house, they are proposing to remove the existing garage and construct the single family house with a driveway to Elizabeth Street.

Mr. Eastridge said that they have submitted the drainage calculations to the Division of Engineering and have also spoken with the Division of Sanitary Sewers. It was determined that the existing sewer line in this area has sufficient capacity to handle this proposal. He said that a lateral connection will be established from the existing sanitary sewer line to the proposed single family unit.

In conclusion, Mr. Eastridge stated that the applicant was in agreement with the staff's recommendations, and requested approval of PLAN 2011-26F.

Planning Commission Questions – Ms. Copeland asked how many bedrooms are being proposed with this request. Brian Ritter, applicant and property owner of 201 Forest Park Road, replied that this will be a two-story, 4-bedroom structure. He noted that they have been working with student organizations to provide student housing, which will financially help with their children's college fund in the future.

Mr. Owens asked if permeable pavers would be used. Mr. Eastridge said that they are proposing open graded asphalt.

Ms. Copeland asked if there is an Ordinance against gravel being used. Mr. Eastridge said that they are proposing to have grass between the pavers, not gravel. Ms. Copeland said that she believed there was an Ordinance against the use of gravel. Mr. Eastridge said that there is an Ordinance against loose gravel because that creates dust; however, they are proposing a more dustless, stable material, such as grass.

Ms. Beatty asked if the purpose of this request is for student housing. Mr. Ritter said that their intention is to construct a single family home to either sell or use as rental property. He then said that should this property become a rental home, they can not discriminate between students and non-students. Ms. Beatty said that it was mentioned that Mr. Ritter is working with student organizations, and asked if these organizations are associated with a sorority or fraternity. Mr. Ritter said that he is working with the Christian Student Fellowship, which is a large student organization on campus. Ms. Beatty asked if this request required neighborhood meetings. Mr. Martin replied in the negative, and said that the Council had initiated and approved amendments to the Zoning Ordinance for Articles 1, 7, and 8 to Redefine "Family" and Other Definitions (ZOTA 2010-1) in June, 2010. He noted that this change required the occupancy of each unit to be restricted to four or fewer unrelated individuals.

Ms. Copeland asked if Smart Properties is owned by the applicant. Mr. Ritter replied affirmatively.

The Chair asked if there was anyone in the audience in support of this request who wished to speak. There was no response. The Chair then asked if anyone in the audience in opposition to this request who wished to speak.

Opposition - Ms. Molly Davis, property owner of 1406 Elizabeth Street, was present. She noted she had two letters to submit to the Commission for their review. The first letter was from Harck Pickett, who is the primary contact for the Elizabeth Street Neighborhood Association. She noted that Mr. Pickett was not able to attend today's meeting. In his absence, he requested that the following letter be read to the Commission.

*"Dear Planning Commission members,*

*I regret not being able to be present for today's session due to other commitments. I write regarding my opposition to the proposed lot subdivision at 201 Forest Park Road which is*

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*located just up the street from me. The issue at hand is much larger than just this single property.*

*Some of you have lived in Lexington for some time and recall what streets like University Ave, State Street, Crescent, Conn Terrace, Press, Waller, and Gazette were like in the past. These were comfortable and affordable areas to live at peace and raise a family. No more.*

*Through irresponsible development, University Expansion, ineffective planning and enforcement, they were converted from affordable family housing near our urban core into nothing more than off-campus dormitories with blacktopped or paved backyard parking lots that contribute to runoff and stormwater problems. If they don't have a paved parking lot, drivers must park on the streets. The problem continues to spread to other neighborhoods - especially around UK. The spread of these problems threaten the very mission of the Planning department to provide a vision and strategy that will allow Lexington grow and prosper while preserving, protecting, and enhancing existing neighborhoods, downtown, and the rural Bluegrass cultural landscape.*

*As residents of the neighborhoods around the University of Kentucky, we respectfully ask of the planning commission what the vision and strategy is to protect and enhance our existing neighborhoods?*

*Is the plan to allow the continued deterioration of our neighborhoods? Which streets or neighborhoods are being protected? Forest Park Road? Westwood Court? Dantzler? Barberry? Arcadia Park? Cherokee Park? Hiltonia? Shady Lane? Edgemoor? As property owners and residents yourselves, I'm sure you can understand our anxiety. The vision and strategy of your department will play a large part in what these areas look like in 10, 20, 30 years.*

*Residents are concerned that the subdivision of 201 Forest Park Road and the impervious surface area created will further contribute to problems like stormwater runoff, parking and density in a neighborhood that does not have the infrastructure to support it. We look to the planning commission and the planning department to fulfill the commitment of protecting and enhancing our existing neighborhoods.*

*Sincerely,  
Harck Pickett  
Kathy Pickett  
Bob Kelly  
Dorothy Freeman  
Iris Flythe  
Joanne Filkins  
Michael Davidson  
Kiristen Bright  
Tim White*

*ESNA  
228 Forest Park Road"*

Ms. Davis submitted the topography map for the Elizabeth Street Neighborhood, as well as several photographs of the subject property and the nearby lots. She noted that the following letter referenced the previously submitted photographs. (A copy of the letter and photographs are attached as an appendix to these minutes).

*"1406 Elizabeth Street  
Lexington, KY 40503*

*May 12, 2011*

*Members of the Planning Commission:*

*Thank you for the opportunity to speak to you today about the possible subdividing of 201 Forest Park Road. I have lived on Elizabeth Street for approximately 15 years. I rented 1415 Elizabeth Street from 1996 to 1999. In 1999, I bought 1406 Elizabeth Street and lived there until March of this year. My decision to move was made because of the deterioration of the neighborhood and what I perceive as a lack of commitment on the part of local government to address and reverse the problems and issues that threaten the long-term viability of the neighborhood. I strenuously object to the subdividing of 201 Forest Park Road for the following reasons:*

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1. Photo 1 -201 Forest Park Road is a landmark property in that it is a corner property in an area that transitions from R-2 to R-1 (single family residential). The home is substantial and in proportion with the size lot it occupies.
2. Photos 1, 2 and 3 – Parking is not allowed on either Forest Park Road at 201 Forest park nor on Elizabeth Street at that location. All parking associated with 201 Forest Park (and potentially with a new address on Elizabeth Street) must be borne on the site or accommodated by street parking at some distance from the address. If 201 is subdivided, parking would have to be accommodated on the new Elizabeth St. house site itself.
3. Photo 4 – shows the garage for 201 Forest Park.
4. Photo 5 – Subdividing the lot may be legal to do according to the zoning laws in effect, but so is this parking. It is directly across Elizabeth Street from the potential new home. Is this the kind of development you want to live across the street from? Would you as potential homeowners find this desirable? I don't find it desirable and my guess is that you wouldn't find it attractive either.
5. The intent stated by the party seeking subdivision to Mr. Harck Pickett, ESNA, is that his intention is to rent the house that he wants to build on the subdivided property. While this may be legal, please look at the attached drawing showing housing on Forest Park. There are 9 owner-occupied homes and 29 renter-occupied homes. A healthy neighborhood has a healthy mix of families and single people, old and young, eth. A deteriorating neighborhood is signified by a lack of people who find it desirable to invest and live in a neighborhood. Would you buy a home where 75% of the homes are owned by people who aren't committed to living there?
6. Elizabeth Street itself – the roadway, the sanitary and storm water systems, the easements, lighting and street trees (or lack thereof), are in need of an entire rebuilding process, not additional loads. Darryl Bennett and I discussed this recently and I believe he would say so if he were here today. Elizabeth Street does not need any added storm water burden. If this site is allowed to be subdivided, in spite of neighbor's objection, measures must be taken to address storm water such as a requirement for pervious pavement for car parking and rain gardens to detain water on site and not further contribute to the infrastructure problems in this neighborhood.

*I ask that you consider the impact on the existing neighborhood that will occur should you decide to allow the subdivision of this lot and elect not to allow the subdivision of 201 Forest Park Road.*

*Sincerely,*

*Mary Davis  
(attachment)"*

Nancy Stengel, property owner of 114 Arcadia Park, was present. She said that in the last 25 years this once beautiful area has degraded into an undesirable place to live. She then said that she has nothing against the University of Kentucky, but she does not want this neighborhood to be consumed by student housing. Ms. Stengel asked that the Planning Commission consider the potential impact that this request will have on this neighborhood. She said that the storm water drainage, trash, noise and traffic will increase should this request be granted.

Applicant's Rebuttal – The Chair asked if the applicant's representative wished to rebut any comments made. Mr. Eastridge commented that they have met the required conditions for the approval of this plat. He said that they have spoken with the Division of Water Quality, and the storm water drainage will not increase in this area. He requested that the Planning Commission approve this request.

Staff Rebuttal – The Chair asked if the staff wished to rebut any comments made. There was no response.

Objector's Rebuttal – The Chair asked if anyone in the audience wished to rebut any comments made. There was no response.

Planning Commission Questions – Mr. Wilson asked if Ms. Davis represented the Elizabeth Street Neighborhood Association or a homeowners' association. Ms. Davis said that Harck Pickett represents the Elizabeth Street Neighborhood Association. Mr. Wilson then asked if the neighborhood association consists of property owners and occupants of the rental properties. Ms. Davis replied affirmatively, noting that the majority of the people who attend their meetings are property owners.

Ms. Roche-Phillips asked what about the proposed lot sizes. Mr. Martin said that both lots will meet the R-1C requirements, as one lot will consist of 8,000 square feet and the other lot will exceed 12,000 square feet in size. Ms. Roche-Phillips then asked the sizes of the surrounding lots. Mr. Martin said that the surrounding lots are within the R-1C zone; but as for the individual square footage, the staff is unsure of their size.

Mr. Owens asked if back yard parking is allowed; and if not, who enforces that issue. Mr. Martin said that back yard parking is allowed, but it is regulated through enforcement complaints, primarily.

Mr. Holmes asked if the off-set parking will be met on the single family unit. Mr. Martin replied affirmatively, and said that parking must also be behind the platted building line. Mr. Holmes asked if parking would be allowed for University of Kentucky games. Mr. Martin said that there is an Ordinance that deals with that parking issue during those games.

Mr. Owens asked how much of the lot could be used for parking. Mr. Martin said that the controlling factor is the number of occupants who have vehicles in that household.

Ms. Roche-Phillips asked Ms. Davis for further comments on neighborhood parking. Ms. Davis said that if there is gravel preexisting prior to the regulation change, it can be refreshed with new gravel. She said that the concern with the use of gravel is due to it entering the storm water system. Mr. Martin acknowledged that there are enforcement issues do exist with the use of gravel.

Discussion - Ms. Copeland said that she will vote against this request because it results in an adverse environmental impact against this neighborhood. She said that she had visited the area and requested to make a presentation. The Chair asked if the Commission wished to reopen the discussion portion for this request. Mr. Cravens said that he did not wish to hear the information. Ms. Beatty said that if the information is new evidence, the Commission should hear Ms. Copeland's information. Ms. Boland said that if new evidence is being presented to the Commission, all parties associated with this request will need the opportunity to respond to it. She then said that the Commission had already closed the discussion portion concerning this case, and with the new evidence being submitted, the Commission would need to reopen that discussion. The Chair declared that the discussion portion for this request was reopened.

Ms. Copeland said that when driving down Elizabeth Street, the back yard of the subject site has no obstruction blocking the view to the adjacent properties. This type of open space concept is considered a "visual gateway." She noted that the Forest Park area is different from the surrounding areas, because there is more open space, and that this open space provides a "window" throughout the area. She said that if this request is approved, that "window" or "visual gateway" will vanish.

Ms. Copeland then said that she does not believe student housing is needed here, since there are different types of housing (i.e., bungalow) that already exist that is in a more ideal location for the University of Kentucky faculty and staff, as well as graduate or undergraduate students, which would be closer to campus. She said that had the University of Kentucky ranked low in providing student housing, then the additional housing would be needed, but that is not the case.

Ms. Copeland said that there is a large holly tree in the side yard, which is where the proposed sanitary sewer line will be installed. She then said that the open space on the subject property will be omitted due to the paved area. She felt that this proposed request will be "Helter Skelter" for this area.

Ms. Copeland cited the following excerpt from the May/June 2011 issue of National Geographic Travelers, written by Keith Bellows:

*"What role does sense of community play? It's becoming much more important, especially because so many of us live alone or have to move far away from family and childhood friends. That sense of community becomes our anchor. I'm very drawn to places that have this distinctive sense of self, a distinctive soul. One of our biggest challenges is how to remake our suburbs, which tend to be generic. How do we create character? How do we make them more livable and purposeful?"*

*Whether we're in France, the United States, China, or Japan, we tend to eat the same foods, wear the same clothes, drive the same cars. But then simultaneously, people are trying to find what's unique and authentic in the world, and that interest makes those things rise in value. In some ways, capitalism is wrapping its arms around a place's sense of history and authenticity, viewing them as economic assets, a storehouse of value and profits..... In some ways, capitalism is wrapping its arms around a place's sense of history and authenticity, viewing them as economic assets, a storehouse of value and profits. And yet, popularity threatens those assets. Coming to grips with that contradiction is an important challenge, because once that history and authenticity are eradicated, they're impossible to get back."*

Ms. Copeland said that now that there is more housing in this area, the significance of having a strong boundary is important. She said that the reasons previously mentioned are findings for disapproval.

Applicant's Rebuttal – The Chair asked if the applicant's representative wished to rebut any comments made. Mr. Eastridge said that this request is in agreement with the 2007 Comprehensive Plan, as well as in agreement with the Land Subdivision Regulations. That being said, he requested that the Planning Commission approve this request.

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Mr. Ritter said that he had spoken with the staff, as well as Wes Witt regarding what could be done on this site. He then said that this property is in compliance with the local regulations and is located within the Infill and Redevelopment Area. He said that development in the Infill and Redevelopment Area will help prevent urban sprawl. He noted that there are three other similar properties at this intersection that have already subdivided their lots.

Objector's Rebuttal – The Chair asked if anyone in the audience wished to rebut any comments made. Ms. Davis said that she appreciated Mr. Ritter's spirit in providing his family financial support, but the homeowners in the area should not have to support their economic development. She then said that urban infill and redevelopment is not intended to subdivide properties.

Ms. Stengel thanked Ms. Copeland for her presentation, and said that, at one time, Forest Park was a beautiful part of Lexington. The properties in this area were then owner occupied, unlike now.

Staff Rebuttal – The Chair asked if the staff wished to rebut any comments made. There was no response.

Planning Commission Questions – Ms. Roche-Phillips said that she had spent 2½ years on the Student Housing Task Force concerning these problems. The subject property is in compliance with the Land Subdivision Regulations, but she agreed that should the lot be subdivided further, erosion will occur in this neighborhood. She was concerned that this will undermine the progress that has been made up until now. She said that she understands that the other corner lots have already been subdivided, but she also agreed with Ms. Copeland's comments.

Mr. Cravens said that the subject property already has an existing building with a detached garage on the site. The garage will be removed and replaced with a new building, and permeable pavers will be used for the driveway rather than concrete. Mr. Cravens commented that he did not understand what Ms. Copeland meant when she used the term "gateway." In reviewing the photographs previously submitted, he said that there is a remnant of a preexisting building previously on this site. He believed that if a new building were to be built, it would not contribute to any additional runoff. He said that there was previous testimony noting that there is no driveway parking in the front of the houses; but in looking at the submitted photographs from Ms. Davis, there is parking in front of the house.

Mr. Cravens said that the size of the subject property is twice as big as the other lots in the area. The subdivision and the additional structure would not be any different than the other side of the road. In conclusion, Mr. Cravens said that he is considering approval of this request because there is no reason in the ordinance and regulations to disapprove it.

Action - A motion was made by Mr. Cravens, seconded by Mr. Wilson to approve PLAN 2011-26F, subject to the revised conditions listed by the staff.

Legal Comment - Ms. Boland said that approval of a subdivision plan is a ministerial decision, not a discretionary decision, such as with a zone change. She said that there are rules and regulations to abide by; and if a request is in compliance with the rules and regulations, denying the request will constitute a violation of the applicant's rights. She then said that if a request is not in compliance with the requirements set forth in the Zoning Ordinance or the Land Subdivision Regulations; or should that request pose a specific public safety concern, then findings of disapproval would be valid. Ms. Boland said that if the Commission finds that this request is completely in compliance with the requirements set forth in the Zoning Ordinance, then there should be no discussion.

Discussion of Motion – Mr. Wilson asked for further clarification as to what the Commission is charged with in reviewing a subdivision plan. Ms. Boland said that the Commission is charged with determining whether or not a request is in compliance with the requirements set forth in the Zoning Ordinance or the Land Subdivision Regulations. Mr. Wilson said that the Committee's recommendation is already determined prior to the Commission's meeting. Ms. Boland disagreed, and said that the staff makes a recommendation to the Planning Commission; and it is up to the Commission to determine whether or not each request is in compliance with the rules and regulations set forth. She said that if the Commission disagrees with the staff, it is up to the Commission to compose such findings.

The motion carried 7-1 (Copeland opposed; Blanton, Brewer and Paulsen were absent).

*Note: Ms. Beatty departed at this time.*

## **2. DEVELOPMENT PLANS**

- a. DP 2009-75: NDC PROPERTY, UNIT 5D, PH II (WELLINGTON) (5/29/11)\* - located at 501 West Reynolds Road and Vincent Way. (Council District 9) **(Sherman/Carter/Barnhart)**

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\* - Denotes date by which Commission must either approve or disapprove plan.

Note: This plan was indefinitely postponed by the applicant on January 22, 2010, and the Planning Commission postponed this plan at their April 14, 2011, meeting.

The Subdivision Committee Recommended: **Postponement.** The design and density proposed raise several issues from the staff's perspective, and may not comply with the Land Subdivision Regulations. A redesign may be in order.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Correct title to include Preliminary Subdivision Plan.
10. Denote sidewalks from front of units to right-of-way.
11. Addition of typical townhome dimensions for Units 4 & 14.
12. Clarify extent of sanitary sewer easement along west side of property.
13. Denote utility easement along western boundary of property (per Plat L-918).
14. Document compliance with private open space requirements per R-1T zone.
15. Clarify "private street responsibilities" note.
16. Discuss extending sidewalk on Vincent Way.
17. Discuss Vincent Way improvements and termination.
18. Discuss proposed density.
19. Discuss drainage and improvements proposed on Lot 7.
20. Discuss one-way traffic movement proposed.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the Final Development Plan for NDC Property, Unit 5D, Phase II (Wellington). This property is located at 501 West Reynolds Road and Vincent Way. He noted that this plan was indefinitely postponed by the applicant on January 22, 2010, and the Planning Commission postponed this plan at their April 14, 2011, meeting.

*Note: Ms. Copeland departed at this time.*

Mr. Martin circulated an aerial photograph to the Commission, and said that this property is located just off Wellington Way near the existing roundabout at Keithshire Way. He then said that the shape of the property is triangular and is situated within Wellington Way and Dorchester Place & Vincent Way. He indicated that there are commercial, educational and residential uses within the general vicinity.

Mr. Martin said that the property is zoned R-3, and the overall design of this development will consist of 15 two-story townhouses with a two-car garage. He noted that the entrance into and out of this development will be provided from Wellington Way through a right-in and right-out only turn. He said that there is a center median on Wellington Way, which prevents traffic from crossing Wellington Way, which will also help to control the flow of traffic. There will be no access provided along Vincent Way; however, there will be a sidewalk extended along Vincent Way to Unit 10 (new condition #13). He said that the interior portion of the development will provide extra parking spaces, as well as a dumpster with a pad that will serve these units.

Mr. Martin directed the Commission's attention to the revised staff recommendations previously handed out, and said that the applicant had submitted a revised Development Plan to the staff. With that submission, many of the deficiencies previously identified have been addressed. He said that the staff is now recommending approval of the proposed request, and briefly explained the remaining list of conditions.

Mr. Martin noted that conditions #1 through 8 are standard sign-off conditions, and indicated that the staff had received confirmation from the Divisions of Fire and Waste Management that they had reviewed the revised submission and there are no issues. The remaining conditions (#9 through 16) listed on the agenda are "cleanup" items.

Mr. Martin said that condition #9 is in regard to note #5 on the development plan. He said that this note had originally referenced "Article 20 of the Zoning Ordinance;" however, it has since been replaced with "Chapter 16 of the Code of Ordinances" and should be reflected on the plan.

Mr. Martin then said that the applicant has not denoted the utility easement along the western boundary of the property (condition #10), or documented the compliance with the private open space per the R-1T zone (condition #11). The staff is requesting that the applicant submit an exhibit showing the lotting pattern of the development to demonstrate that the 10 percent requirement for the private open space is being met. He

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said that the applicant will also need to clarify the private access easement responsibility note on the development plan (condition #12).

Mr. Martin stated that the applicant will need to show the addition of a landscape buffer along the western property line, as well as denote the tree information to be shown on the plan (condition #14).

Mr. Martin said that Old Reynolds Road runs along the side of the subject property and connects to Vincent Way. Eventually, the remaining remnant of this section will be removed and will no longer be available to the public. At that time, the existing right-of-way will revert back to the adjoining properties. He said that there will be no access to the subject property from Vincent Way; however, there will be a sidewalk provided that will extend to Unit 10 (condition #13).

Mr. Martin then said that, in reviewing the development plan, the layout of Units 3, 4 and 15 are fairly close to the access easement. In order to comply with the setback requirements, these units will need to be modified (conditions #15 and 16).

In conclusion, Mr. Martin said that the Courts had approved an Agreed Judgment for the entire NDC Property, and that judgment allowed the rezoning of this property to an R-3 zone. That change ultimately set the overall density on this site. He said that in reviewing this development, there was a concern with the density limits and what could be placed on this development and still be appropriate for the area. Based on the staff research, it was noted that in order for this request to comply with the previously imposed limits, the maximum number of units allowable here would be 15.

Planning Commission Questions – The Chair asked if conditions # 7 & 8 should be deleted from the list of recommendations. Mr. Martin replied negatively and said that the staff wanted the Commission to know that the Divisions of Fire and Waste Management had reviewed this latest development plan submittal.

Mr. Holmes asked how the traffic will access Wellington Way if the entrance only allows a right-in and a right-out movement. Mr. Martin said that the traffic would need to travel Wellington Way then access the roundabout or other streets to go in the opposite direction.

Representation – Mr. John Barlow, developer, stated that he was in agreement with the staff's recommendations, and requested approval of DP 2009-75.

Action - A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 6-0 (Beatty, Blanton, Brewer, Copeland and Paulsen absent) to approve DP 2009-75, subject to the revised conditions listed by the staff.

- b. DP 2011- 29: JEFFERSON & POOLE PROPERTY (PARKWAY PLAZA) (AMD) (5/29/11)\* - located at 2361-2397 Paris Pike. (Council District 6) **(Vantage Engineering)**

Note: The Planning Commission postponed this plan at their April 14, 2011, meeting. The purpose of this amendment is to add 9,100 square feet of retail space and to revise the parking and circulation.

The Subdivision Committee Recommended: **Postponement.** There are outstanding issues concerning the design of improvements on this property.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Delete private street certification.
10. Correct contour elevation information (true elevations to sea level).
11. Denote areas of tree protection and existing tree canopy.
12. Correct plan title.
13. Denote construction access location.
14. Addition of cross-section for service road from previous plan.
15. Denote building heights.
16. Addition of dimensions of existing buildings.
17. Remove signs from plan.
18. Revise purpose of amendment note.
19. Denote existing trees in existing 12' screening easement along Paris Pike.

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\* - Denotes date by which Commission must either approve or disapprove plan.

20. Discuss dumpster location proposed.
21. Discuss access proposed off of access easement.
22. Discuss landscaping to be installed along the rear of the building.
23. Discuss drive aisle widths and lack of landscape islands.

Staff Presentation – Mr. Taylor directed the Commission's attention to a rendering of the amended Final Development Plan for Jefferson & Poole Property (Parkway Plaza), which is located at 2361 - 2397 Paris Pike. He oriented the Commission to the surrounding street system, and said that the subject property is located at the intersection of Rogers Way and Paris Pike. He then said that the purpose of this amendment is to add 9,100 square feet of retail space and to revise the parking and circulation of the development.

Mr. Taylor noted that the Subdivision Committee and the Planning Commission had postponed this request at their April 14<sup>th</sup> meeting, at the request of the applicant, as the staff had concerns with the proposed design of the property. Since the Planning Commission meeting, the applicant had submitted a revised Development Plan that has addressed many of the deficiencies and issues previously identified. He said that the current submission now proposes a redesign of the parking spaces, loading dock and dumpster locations, as well as new pedestrian access. He then said that the loading dock and dumpster pad is now located to the rear of the new building, away from pedestrian traffic.

Mr. Taylor directed the Commission's attention to the revised staff recommendations previously distributed, and said that conditions #1 through 8 are standard signoffs, while the remaining conditions (#9 through 13) are "cleanup" items that still need to be addressed. He briefly explained that the applicant will need to correct the cross-sections "D-D" & "E-E" for the sidewalk (condition #9). He said that note #11 will need to be deleted from the plan (condition #10), and note #6 will need to be replaced to reference Chapter 16 of the Code of Ordinances (condition #11). He further explained that the layout of the detention basin has been changed and the retaining wall will need to be denoted on the plan (condition #12). Mr. Taylor said that the applicant is proposing a landscape buffer area on the revised submission, but the staff is recommending an additional 5' landscape buffer to be added along the access easement.

In conclusion, Mr. Taylor said that the staff is recommending approval of this revised submission, subject to the revised staff recommendation distributed to the Commission.

Representation – Mr. Kendal Wise, Vantage Engineering, was present representing the applicant. He explained that they are in agreement to add the additional 5' landscape buffer area along the service road, and said that they are in agreement with the staff's recommendations. He requested approval of DP 2011-29.

Planning Commission Questions – Mr. Holmes confirmed that there will be an additional landscape buffer added to the rear of the development. Mr. Wise replied affirmatively. Mr. Taylor said that condition #13 could be changed to either "Denote" or "Resolve" in the opinion of the staff.

Action - A motion was made by Mr. Owens, seconded by Ms. Roche-Phillips, and carried 6-0 (Beatty, Blanton, Brewer, Copeland and Paulsen were absent) to approve DP 2009-75, subject to the revised recommended listed by the staff, changing condition #13 to read "Denote landscaping to be installed along the rear of the building."

- c. ZDP 2007-81: VILEY HEIGHTS SUBDIVISION, UNIT 3-D (OBEY & JOELLA WALLEN PROPERTY) - located at 1388 Alexandria Drive. (Council District 11) **(Justice Surveying)**

Note: The Planning Commission approved this plan at their November 8, 2007, meeting, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping.
5. Urban Forester's approval of tree inventory map.
6. Addition of required retail parking in site statistics.
7. Denote uses of buildings in site statistics.
8. Addition of tree protection plan.
9. Correct plan title.
10. Delete signs from plan.
11. Addition of the 1992 floodplain information and the newer DFIRM maps.

Note: Approval of this plan has since expired. At the February 24, 2011, meeting, the Planning Commission asked to redocket this item for consideration. The Planning Commission postponed this plan at their April 14, 2011, meeting.

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\* - Denotes date by which Commission must either approve or disapprove plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, changing #11 as follows:

11. Addition of the current ~~1992~~ floodplain information and the newer DFIRM maps.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the Final Development Plan for the Obey & Joella Wallen Property, located at 1388 Alexandria Drive. Mr. Martin briefly oriented the Commission to the nearby street system, and said that the subject property is situated at the corner of Alexandria Drive and Devonport Drive. He said that there is an existing building on this site with lot coverage of approximately 9,280 square feet. There are 58 parking spaces associated with this development, as well.

Mr. Martin gave a brief history of this request, and said that the Planning Commission had reviewed the requested zone change and recommended disapproval at their June 26, 2007, meeting. However, the Urban County Council overturned that decision and granted approval of the applicants' zone change request. The Zoning Development Plan was then redocketed for review and was approved by the Planning Commission at their November 8, 2007, meeting. Mr. Martin said that during the recent hearing for MAR 2011-4, the issue of how the subject property was being utilized was discussed, which led to the realization that this development plan had not been certified. He then said that since the approval of this plan had expired, the staff informed the Planning Commission, and the item was redocketed to the April 14, 2011, meeting for consideration.

Mr. Martin said that at the April 14<sup>th</sup> meeting, there was considerable discussion among the Planning Commission members as to whether or not the businesses operating out of this development had obtained a Certificate of Occupancy. That discussion is what led this item to be postponed. He said that Mr. Murphy, attorney for the applicant, was agreeable with a one-month postponement to allow extra time for the plan to be cleaned up.

Mr. Martin stated that since the April 14<sup>th</sup> Planning Commission meeting, the applicant had submitted a revised Final Development Plan to the staff that addressed many of the remaining deficiencies previously identified. He directed the Commission's attention to the revised staff recommendations previously distributed, and said that conditions #2 through 5 are standard signoffs, while the remaining condition (#8) is a "cleanup" item. He said that the applicant has not yet submitted the complete tree protection plan and will need to do so prior to certification of this plan.

Mr. Martin then stated that the staff is recommending reapproval of this revised plan, subject to the remaining conditions listed on the revised staff recommendations.

Planning Commission Questions – The Chair confirmed that there are only five remaining conditions, with which Mr. Martin concurred.

Representation – Dick Murphy, attorney, was present on behalf of Obey Wallen. He said that they were unaware that there was an issue with the tree protection plan, but they are agreeable to provide that information to the staff. He then said that in speaking with Building Inspection, all the uses in the building have obtained a Certificate of Occupancy. He noted that this request is unusual in that since there were no renovations made, no building permits were required. This type of request resulted in the plan falling through the cracks. Mr. Murphy concluded that his client is in agreement with the staff recommendations and requested reapproval.

Planning Commission Question – Mr. Owens clarified that the reason this item was postponed was due to the applicants' representative agreeing to a one-month postponement to clean up the remaining items. He said that this request was not postponed due to the discussions surrounding the Certificates of Occupancy.

Action - A motion was made by Mr. Owens, seconded by Mr. Holmes, and carried 6-0 (Beatty, Blanton, Brewer, Copeland and Paulsen absent) to approve ZDP 2007-81, subject to the remaining conditions recommended by the staff.

- d. DP 2011-36: DENTON FARM, INC. (AMD) (8/2/11)\* - located at 4070 Richmond Road.  
(Council District 7) **(Strand Associates)**

Note: The purpose of this amendment is to reduce the number of condominium units and increase the number of single family and townhouse units. This development plan requires the posting of a sign, and an affidavit of such.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.

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3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Revise the purpose of amendment note.
9. Correct site statistics for dwelling units.
10. Provided the Planning Commission makes a finding of compliance with the EAMP.
11. Addition of existing and proposed easements.

Staff Presentation – Mr. Taylor directed the Commission's attention to a rendering of the amended Preliminary Subdivision & Final Development Plan for Denton Farm, which is located at 4070 Richmond Road. He oriented the Commission to the surrounding street system, and said that the subject property is located along Richmond Road off the main entrance of Ellerslie Park Boulevard. He then said that the purpose of this amendment is to reduce the number of condominium units and increase the number of single family and townhouse units. He noted that this amendment will increase the number of single family lots by four and townhouses by one, while reducing the number of condominiums by five. There is no change proposed to the overall number of units for the property (495), which is limited through the conditional zoning restrictions.

Mr. Taylor said that the Subdivision Committee recommended approval of this request, subject to the conditions listed on today's agenda. He noted that this property is within the Expansion Area Master Plan, and the changes being requested do not constitute a significant change in the compliance for this property. Therefore, the revised development plan still meets the future land use, community design and infrastructure element of the EAMP, as per the previous Commissions findings.

Representation – John Barlow said that he is in agreement with the staff's recommendations, and requested approval of DP 2011-36. He noted that this development plan does require the posting of a sign, and submitted the required affidavit.

Citizen Comments – Albert Kelly resident of the Ellerslie at Delong Neighborhood was present. He asked that the Commission reconsider this request, since the redesign of the single family portion of the development will alter the density and character of the entire community. He said that it was noted that a "hardship" is the reasoning behind this request, but there is significant amount of development still to occur, and he did not see the justification for the hardship. He said that this development is at the edge of the Urban Growth Area and was originally, a well thought out plan. This is the reason people have purchased or will be purchasing their homes in this area. The existing property owners were under the assumption that the original design of the neighborhood would not change.

Planning Commission Questions - Ms. Roche-Phillips asked if the Commission is bound by the same administrative decision as the previous request (PLAN 2011-26F). Ms. Boland replied that the Commission will need to determine whether or not this request is in compliance with the 2007 Comprehensive Plan, the EAMP, public safety requirements and so forth. Mr. King noted that there are specific standards for development plans within the Zoning Ordinance. Mr. Martin explained that this request is both an amended Preliminary Subdivision and Final Development Plan, which is not uncommon in the expansion area. He said that since this request is in the expansion area and due to the type of request, the applicant was required to post a sign, and submit an affidavit and photograph to the staff. He noted that in the past, the Commission had previously approved several other Final Record Plats for this area that did not require the posting of a sign for notification. Mr. Saltee further clarified that Article 21-4(c) of the Zoning Ordinance refers to the review of the development plan, while Article 21-4(d) of the Zoning Ordinance refers to the available options for Commission actions. He noted that Article 21-4(c) allows the Commission to "modify or disapprove the development plan if they find that the plan will adversely affect the public health, safety, and welfare or alter the essential character of the development" as originally approved.

Mr. Barlow said that he had spoken to several residents in this area, and at that time, there were no objections made known. He then said that he was unaware of Mr. Kelly's objections until today's meeting.

Mr. Cravens asked how many and of what size are the proposed lots. Mr. Barlow said that there will be four lots added with a range of 70 to 78 feet in width, which is similar to the other lots within the general area.

Mr. Holmes asked if the original development plan had proposed a buildable area on the cul-de-sac. Mr. Barlow said that originally request proposed single family lots, but at this time, due to the economy, that type of housing is not as marketable.

Mr. Owens asked if the number of units for the overall development is changing. Mr. Taylor said that the total number of units are not changing, as there will still be 495 total dwelling units.

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Ms. Roche-Phillips asked if the single family lots are being removed to create higher density townhouse units. Mr. Barlow replied negatively.

Mr. Holmes asked for clarification on the depth of the cul-de-sac before this request and after this request. Mr. Barlow said that the lot depth ranged from 90 to 95 feet, and depending on the location it could be 140 feet deep.

Mr. Cravens said that the change from what was originally approved and the proposed request is a depreciable difference financially. Mr. Barlow agreed.

Mr. Holmes said that the basic value of the new dwelling units will not change. Mr. Barlow said that this amendment will keep those lots the same as the other lots in the area.

Action - A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 6-0 (Beatty, Blanton, Brewer, Copeland and Paulsen were absent) to approve DP 2011-36, subject to the conditions listed by the staff.

- e. DP 2011-37: HAMBURG PLACE OFFICE PARK, LOT 3-B (AMD #10) (7/3/11)\* - located at 1744 Alysheba Way. (Council District 6) (HDR)

Note: The purpose of this amendment is to revise the layout and use of Lot 3-B.

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Revise tree canopy statistics (20% canopy required) to indicate the # of trees to be planted and their location.
10. Discuss possible traffic improvements to Pink Pigeon Parkway & Alysheba Way and Pink Pigeon Parkway & Man o' War Boulevard intersections.

Staff Presentation – Mr. Taylor directed the Commission's attention to a rendering of the amended Final Development Plan for Hamburg Place Office Park, which is located at 1744 Alysheba Way. He oriented the Commission to the surrounding street system, and said that the subject property is located near the intersection of Man o' War Boulevard and Pink Pigeon Parkway, just off Alysheba Way. Mr. Taylor said that the Planning Commission had previously approved an office building development for this lot, and now the applicant is requesting to revise the layout of the building and provide an Alzheimer Treatment Facility. This proposal will consist of a one-story building of approximately 40,032 square feet in size. He said that there will be a canopy at the front of the building, as well as a court yard to the center of the building, as well as associated parking on site.

Mr. Taylor said that the Subdivision Committee had recommended approval of this request, subject to the conditions listed on today's agenda. He then said that at the Subdivision Committee meeting, there was a discussion concerning the traffic improvements being considered to the intersections of Pink Pigeon Parkway & Alysheba Way; and Pink Pigeon Parkway & Man o' War Boulevard. He said that the overall development plan has a note for some of the other lots that referenced improvements being reviewed for these two intersections, at some point in the future. He said that even though Lot 3-B is not associated with that note, the staff did inform the Planning Commission a couple of months ago that they would give a update report on the status of these improvements. Mr. Taylor then said that the staff had met with both the Division of Traffic Engineering and the applicant to discuss several possible improvements. The applicant took into account what was said at that prior meeting, and had agreed to speak to the property owners of the Office Park. He said that information will then be provided to the Commission at such time the next proposal is submitted for consideration.

In conclusion, Mr. Taylor said that the staff is recommending approval of this request, subject to the conditions listed on the agenda.

Representation – Dick Murphy, attorney, was present on behalf of his client, who is developing the Alzheimer Treatment facility, located at 1744 Alysheba Way. He said that the issues of the traffic improvements were previously discussed with the Division of Traffic Engineering, and staff. He said that they are in agreement to initiate a similar process that was done for the intersection of Autumn Ridge and Plaudit Place, near Man o' War Boulevard. The changes that were made in that intersection were the result

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of meetings with the nearby neighbors, the Division of Traffic Engineering and the staff. He indicated that they intend to follow the same process that was done there, and will continue to report to the Planning Commission on the status of these improvements to this area.

In conclusion, Mr. Murphy said that they are in agreement with the staff recommendations, noting that they believe condition #10 could be removed and request reapproval.

Mr. Taylor confirmed that condition #10 could be deleted from the recommendations.

Planning Commission Questions – Mr. Holmes asked if the traffic improvements had been resolved. Mr. Murphy said that his client has initiated the process to speak with the property owners in this area. He said that it is important to receive their input on this issue and any concerns that they may have. Mr. Holmes then asked if an agreement is reached will the applicant be responsible for the improvements. Mr. Murphy said that the responsible party for the improvements is part of the ongoing discussion. He said that the Planning Commission will be able to revisit this issue when a proposal is submitted for the other vacant lots. The Planning Commission will continue to receive updates concerning the traffic improvements to these intersections. Mr. Holmes said that this development would already be approved prior to the improvement being made. Mr. Murphy said that only Lot 3-B would be approved, not the vacant lots.

Mr. Cravens said that Lot 3-B does not have the same restrictions per the note as the other lots in the area. Mr. Murphy confirmed that Lot 3-B does not have the note restriction attached. He said that since the applicant is increasing the lot size of Lot 3-B, the note became an issue of discussion.

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 6-0 (Beatty, Blanton, Brewer, Copeland and Paulsen were absent) to approve DP 2011-37, subject to the conditions listed by the staff, deleting condition #10.

- f. DP 2011-42: HILLENMEYER PROPERTY - WEST (7/3/11)\* - located at 2813 Sandersville Road.  
(Council District 2) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire's approval of emergency access and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection.
10. Denote consolidation with triangular parcel providing site access.
11. Revise plan boundary to include entrance at Sandersville Road.
12. Denote purpose of 20' construction easement.
13. Discuss access road, sidewalk and tree canopy conflicts.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the proposed Final Development Plan for Hillenmeyer – West Property. This property is located at 2813 Sandersville Road, just off Leestown Road and Greendale Road. He briefly oriented the Commission to the surrounding streets, and said that the subject property is situated near the recently approved Preliminary Subdivision Plan for the Hillenmeyer Property – East and noted that at the March 24<sup>th</sup> meeting, the Planning Commission had granted a waiver to the alignment of Sandersville Road as it related to the protection of the existing cemetery. He said that the subject site is located north of that cemetery within an R-3 zone, and is approximately 2.74 acres in size. He then said that the applicant is proposing 35 townhouses with associated parking being provided on site.

Mr. Martin stated that the Subdivision Committee recommended approval of this request, subject to the list of conditions on today's agenda. He said that conditions #1 - 9 are standard sign-offs, and conditions #10 - 12 are "cleanup" types of items. He then said that the remaining condition is a discussion item concerning the access road, sidewalk and apparent tree canopy conflict. He indicated to the Commission the location of the access road that will serve this development, noting that Windstream Communications is the current property owner where that road is proposed. He said that the applicant had indicated that they had spoken with a representative of Windstream Communications, and they are comfortable with allowing the applicant permission to utilize the access road into this property. He noted that the existing 20' construction easement on that property is directly across from Master Station Drive and is adjacent to the proposed access easement.

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Mr. Martin then stated that the staff is recommending approval of this request, subject to the conditions listed on today's agenda, deleting conditions #10 and 11, and changing condition #13 to read "Resolve access road, sidewalk and tree canopy conflicts."

Planning Commission Questions – The Chair confirmed that condition #13 would be changed from "discuss" to "resolve" and conditions #10 and 11 would be removed. Mr. Martin replied affirmatively.

Representation - Howard Cruse, Ball Homes, was present representing the applicant. He said that they had spoken with a representative of Windstream Communications regarding the access easement; and at this time, Windstream will retain ownership of the parcel. He then said that if it is necessary, Windstream Communications could provide a letter to the Commission stating that they are allowing the applicant to utilize the access easement.

Mr. Cruse then said that the staff had a concern with the tree canopy on this site, and noted that there are several areas that have been overgrown with honeysuckle. He noted that they are working with the Urban Forester to resolve any conflicts this development may have with the existing trees.

In conclusion, Mr. Cruse said that they are in agreement with the staff recommendations, and requested approval of this development plan.

Action - A motion was made by Mr. Holmes, seconded by Mr. Wilson to approve DP 2011-42, subject to the conditions listed by the staff, deleting conditions #10 and 11; changing condition #13 to read: "Resolve access road, sidewalk and tree canopy conflicts."

Discussion of Motion – Mr. Owens asked if condition #13 could also reflect the following language "...and provide a letter of agreement from Windstream Communications." Mr. Holmes and Mr. Wilson agreed and considered this a "friendly amendment" to the original motion.

The motion carried 6-0 (Beatty, Blanton, Brewer, Copeland and Paulsen were absent).

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Holmes, and carried 6-0 (Beatty, Blanton, Brewer, Copeland and Paulsen were absent) to approve the release and call of bonds as detailed in the memorandum dated May 12, 2011, from Ron St. Clair, Division of Engineering.

*Note: Mr. Wilson departed at this time.*

- IX. **ADJOURNMENT** - There being no quorum the meeting adjourned at 3:40 PM.

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Carolyn Richardson, Chair

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Mike Owens, Secretary

*Note: As there were too few members present to constitute a quorum, Mr. King commented that the only item remaining on the agenda was the Public Facility Review for the LFUCG Department of Environmental Quality & Public Works for property located at 689 Byrd Thurman Drive. He said that the Planning Commission has 60-days (June 25, 2011) to make comments as to whether or not the proposed request is in agreement or disagreement with the 2007 Comprehensive Plan. However, there are several LFUCG staff members present for this item to answer any questions from the Commission; and in the interest of time, he suggested that the staff be allowed to present the PFR report. At that time, should the Commission feel this item needs to be further reviewed, it could then be placed on a future meeting agenda for final action. He then said that it is not mandatory for the Commission to take an official action on a Public Facility Review, whereas the staff report findings would be sufficient. The Commission agreed that the staff would present the Public Facility Review Report, but no official action would be taken at this time.*

**V. COMMISSION ITEMS**

- A. PFR 2011-4: LFUCG DEPARTMENT OF ENVIRONMENTAL - QUALITY & PUBLIC WORKS** - a Public Facilities Review of the new Material Recovery Facility (Recycling Center), located at 689 Byrd Thurman Drive.

**SUMMARY FINDINGS:** The text of the 2007 Comprehensive Plan, as cited, clearly indicates the importance of and supports the proposed new recycling facility; and the Goals and Objectives that reference provision of essential public facilities and equitable distribution of those facilities for all residents of Fayette County, as well as other Goals and Objectives, will be enhanced by construction of the proposed buildings and use of the subject property for a larger, improved facility.

**STAFF RECOMMENDATION:** Approval, as requested; however, it is important that the floodplain (100-year FEMA flood hazard area) on the property that is associated with both the Town Branch and the Wolf Run Creeks be uninhibited with regard to their water-carrying capability. According to the site plan, it appears that the fence that surrounds the property encroaches into the floodplain; however, according to information provided by a member of the project team, the fence is outside the floodway where stream velocities are more pronounced. The design of the fence, as well as its location, will be subject to approval by the Division of Engineering in order that it not restrict the flow of water in the event flooding of the creek occurs.

The Planning Commission took no official action on this item due to lack of a quorum.

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